Calendar No. 971

100TH CONGRESS
2d Session

SENATE

REPORT
100-536

HAMILTON GRANGE NATIONAL MEMORIAL

SEPTEMBER 22 (legislative day, SEPTEMBER 7), 1988.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 4212]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 4212) to amend the joint resolution of April 27, 1962, to permit the Secretary of the Interior to establish the former home of Alexander Hamilton as a national memorial at its present location in New York, New York, having considered the same, reports favorably thereon with an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

On page 3, line 18, delete "Act." and insert "Act, but not to exceed $2,500,000 for development.".

PURPOSE OF THE MEASURE

The purpose of H.R. 4212 is to authorize the establishment of the Hamilton Grange National Memorial.

BACKGROUND AND NEED

Alexander Hamilton (1755–1804) was a revolutionary soldier, assistant to George Washington, delegate to the Congress under the Articles of Confederation, co-author of the Federalist Papers, first Secretary of the Treasury and advisor to President Washington on international issues. In 1795 Hamilton resigned as Secretary of the Treasury and returned to New York City to practice law, be with his family and build a country home. The home, named The Grange, was then nine miles from New York City and surrounded by 15 acres. Completed in 1802, the two story wood Federal-study house was designed by a noted architect and surrounded by the

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Hamiltons' gardens. Hamilton died in a duel with Aaron Burr only two years after the completion of the house. His wife Elizabeth Hamilton lived there for a while after his death and sold it in 1834.

In 1889 the house was moved two blocks from its original location to its present location at Convent Avenue and West 141st St. in New York City. Its direction was also reoriented. The American Scenic and Historic Preservation Society, owners of The Grange opened it to the public in 1933.

The 1962 legislation that authorized the Hamilton Grange National Memorial (Public Law 87-438) stipulated that the national memorial could not be established until The Grange was relocated. After years of searching for a suitable alternative location, the National Park Service has concurred that The Grange should remain in its present location.

Summary of Major Provisions

H.R. 4212 would amend the 1962 legislation by deleting the section mandating the relocation of the Hamilton Grange. The land is currently owned by the National Park Foundation which would donate it to the National Park Service upon passage of legislation and payment of legal and administrative costs. The Secretary is authorized to reimburse the owner of the property not more than $15,000 for administrative costs directly related to the transfer of ownership of the property. The Secretary is also authorized to acquire personal property associated with and appropriate for the interpretation of the site by donation, purchase with donated or appropriated funds or by exchange.

H.R. 4212 directs the Secretary to administer the memorial in accordance with the laws generally applicable to units of the National Park System. The Secretary shall provide for the interpretation of the life of Alexander Hamilton, preserve and interpret the history of The Grange, and present the history of the United States as a young nation.

The measure directs the Secretary to prepare a General Management plan for the memorial within three years after enactment of this Act, and to submit it to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate.

H.R. 4212, as reported, removes the $960,000 ceiling on development expenditures and replaces it with a ceiling of $2.5 million for development.

Legislative History

H.R. 4212 passed the House of Representatives on June 20, 1988. A companion measure, S. 2389, was introduced by Senator Moynihan on May 13, 1988. A hearing before the Subcommittee on Public Lands, National Parks and Forests was conducted on August 2, 1988.

At the business meeting on Wednesday, September 14, 1988, the Senate Committee on Energy and Natural Resources ordered H.R. 4212, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on Wednesday, September 14, 1988, by unanimous vote of a quorum present, recommends that the Senate pass H.R. 4212 if amended, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Melcher	
Mr. Bradley	
Mr. Bingaman	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker*	
Mr. Domenici	
Mr. Wallop	
Mr. Murkowski*	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	

* Indicates voted by proxy.

Committee Amendment

During the consideration of H.R. 4212, the Committee adopted an amendment imposing a $2.5 million ceiling on development at the Memorial.

Cost and Budgetary Consideration

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 4212. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 4212, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to H.R. 4212 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, August 26, 1988.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on H.R. 4212, "To amend the Joint Resolution of April 27, 1962, to permit the Secretary of the Interior to establish the former home of Alexander Hamilton as a national memorial in its present location in New York, New York."

We support enactment of H.R. 4212, as passed by the House of Representatives, if it is amended as we recommend.

H.R. 4212, as passed by the House, establishes the Hamilton Grange National Memorial in the State of New York. An earlier requirement of the 1962 Joint Resolution of the Congress which required relocation of the Grange would be removed by enactment of H.R. 4212, and it is a measure which we strongly support. The House-passed measure also permits the acquisition of the property on which the Grange is located by donation only, as we had earlier recommended in testimony on H.R. 4212 before the House. We have no objection to the provision which would allow purchase of personal property with donated or appropriated funds.

The man who is the focus of this legislation was both complex and ambitious; combative and controversial. He was described by President John Adams, who shared his political persuasions, as restless, impatient, artful, and unprincipled. His opponents, such as James Madison, recognized his great intellectual powers. George Washington noted that Hamilton was enterprising, an administrative genius, and of great intuition. We need not dwell on the complexities of the man except to note that his loss of Federalist political power to the Republican leadership of Jefferson in the Presidential election of 1800 was a bitter experience for Hamilton. In his disappointment, he turned increasingly to private life for his satisfactions—the building of a long-neglected law practice, stronger family relationships, and a home in the country.

In November 1798, Hamilton sought the cooperation of his Elizabeth in a ". . . sweet project . . ." involving the purchase of land on upper Manhattan Island and the building of the only home the Hamiltons ever owned. Designed by the New York architect John McComb and constructed of materials contributed by his father-in-law, the Federal-style house was completed in 1802 high on a knoll where they could enjoy a majestic view of both the Hudson and Harlem Rivers. To his and our great misfortune, Hamilton died two years later at the hands of Aaron Burr on the same dueling

field in Weehawken, New Jersey, where his son Philip died two years previously.

The Grange was very important to Hamilton even though he spent far less time there than he wished. He named it in honor of the ancestral seat of his family in Scotland. Following his death, his wife Elizabeth remained in residence until it was sold in 1834 when she moved to Washington, D.C. For over half a century, the home passed from one owner to another, until 1889 when it was donated to St. Luke's Episcopal Church. The Church moved the building two blocks southeast to its present location adjacent to the Church. In so doing, the Grange was turned around and the front and side porches removed. In 1924, the Grange was acquired by the American Scenic and Historic Preservation Society, America's oldest historic, society once headed by Alexander Hamilton III, Hamilton's great grandson, who died in 1976. The building was donated to the National Park Service in May 1964 for its preservation and interpretation.

A joint resolution by Congress in 1962 authorized the establishment of the national memorial. The city of New York, prior to the passage of the joint resolution, donated lands to the National Park Service in the vicinity of what is now New York University with an eye toward recreating the 32-acre estate Hamilton had owned and upon which he had constructed the Grange and began exterior restoration efforts in 1979. The lands donated by the city of New York were subsequently returned by the National Park Service.

The lands on which the Grange now sits are suitable and are currently being held by the National Park Foundation. We understand that the Foundation is willing to donate the property to the Federal Government if it can be reimbursed for the administrative costs it incurred in acquiring the property for the National Park Service. These costs are approximately $5,000. In addition, we estimate that additional administrative expenses, such as for legal work, would accompany the donation. For these reasons, the House-passed bill authorizes the Service to reimburse the Foundation for its actual expenses in making the donation.

Interior stabilization of the Grange began in 1983; however, the task which lays before us cannot be accomplished without officially establishing the national memorial in its present location and legislating an increase in the development ceiling, which was last adjusted in 1980, to $960,000. It is currently estimated that total funding of $1.8 million will be adequate to complete the stabilization and restoration of the Grange. We recommend that H.R. 4212 be amended to establish the development ceiling at $1.8 million rather than removing the ceiling altogether. We would expect to complete the project within existing funds.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

SUSAN RECCE,
Acting Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act, H.R. 4212, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

JOINT RESOLUTION OF APRIL 27, 1962

(76 Stat. 57)

[That the Secretary of the Interior is authorized and directed to take such action as may be necessary to provide for the establishment of the former dwelling house of Alexander Hamilton (commonly known as The Grange), situated in New York, New York, as a national memorial. However, the Secretary shall not establish the national memorial until he has satisfied himself that the lands which have been donated are sufficient to assure the relocation of The Grange and administration and interpretation of the national memorial.

[SEC. 2. (a) The national memorial established by the Secretary of the Interior pursuant to this joint resolution shall be designated as the Hamilton Grange National Memorial and shall be set aside as a public national memorial to commemorate the historic role played by Alexander Hamilton in the establishment of this Nation.

[(b) The National Park Service, under the direction of the Secretary of the Interior, shall administer, protect, and develop such memorial, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1961, as amended and supplemented, and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935, as amended.

[SEC. 3. There are hereby authorized to be appropriated such sums, but not more than $460,000, as may be necessary to carry out the provisions of section 1 of this joint resolution.]

SECTION 1. HAMILTON GRANGE NATIONAL MEMORIAL.

(a) ESTABLISHMENT.—In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Hamilton Grange National Memorial (hereinafter in this Act referred to as the "memorial") in the State of New York.

(b) MAP.—The memorial shall consist of the lands and interests in lands and improvements as generally depicted on the map entitled "Hamilton Grange National Memorial Boundary Map numbered 416/80,002 and dated June, 1988.

SEC. 2. ACQUISITION OF PROPERTY.

The Secretary of the Interior (hereinafter in this Act referred as the "Secretary") is authorized to acquire lands, interests in lands, and improvements thereon within the boundaries of the memorial by donation. The Secretary is authorized to reimburse the owner not more than $15,000 for administrative costs directly related to the transfer of ownership of this property. The Secretary may also ac-

quire by the donation, purchase with donated or appropriated funds or by exchange, personal property associated with and appropriate for interpretation of the memorial.

SEC. 3. ADMINISTRATION OF MEMORIAL.

The Secretary shall administer the memorial in accordance with the provisions of law generally applicable to units of the national parks system, including the Act of August 21, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461). In administering the memorial, the Secretary shall)—

(1) provide for the interpretation of the life of Alexander Hamilton;

(2) preserve and interpret the history of The Grange, home of Alexander Hamilton; and

(3) present the history of the United States as a young nation.

SEC. 4. GENERAL MANAGEMENT PLAN.

Within 3 complete fiscal years after the enactment of this section, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the memorial. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1—1a-7). Such plan shall identify appropriate facilities for proper interpretation of the site for visitors.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act, but not to exceed $2,500,000 for development.

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Calendar No. 972

100TH CONGRESS
2d Session

SENATE

REPORT
100-537

MICHIGAN PUBLIC LANDS IMPROVEMENT ACT OF 1988

SEPTEMBER 22 (legislative day, SEPTEMBER 7), 1988.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 4375]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 4375) to improve the management of certain public lands in the State of Michigan, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE

The purpose of H.R. 4375 is to provide for transfer to the State of Michigan of the surface estate in certain tracts of public lands (mostly small islands), to be managed for purposes of public recreation and the protection of the fish, wildlife, plants, and other resources. It would also give the Secretary of the Interior additional authority to resolve title problems of persons with certain lands in Michigan subject to various property interests of the United States, through negotiated sales taking into account various equitable considerations.

BACKGROUND AND NEED

As in other States east of the Mississippi where the United States gained title to lands through the Treaty of Paris (ending the Revolutionary War) and the cessions of various States, much of the land in Michigan has been transferred out of federal ownership through Statehood grants, sales, and other means.

For example, over the past 50 years the Federal Government has transferred 68 parcels of public land to the State of Michigan under the authority of the Recreation and Public Purposes Act. Parcels so transferred can be used only for specified public purpose

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and the patents contain a reverter clause that would return the tracts to the United States if the provisions of the patent are violated. Some other public lands in Michigan have been leased under the same Act, with similar restrictions.

In 1980, the Bureau of Land Management (BLM), through its land use planning process under the Federal Land Policy and Management Act of 1976 (FLPMA), determined that most of the tracts of land in Arkansas, Iowa, Louisiana, Minnesota, Mississippi and all States east of the Mississippi still under its jurisdiction are small, scattered, difficult and uneconomic to manage. The Committee understands that since then BLM has been working with other federal agencies and with these States to see how management of these lands can be improved.

Currently, BLM manages over 500 such small parcels, comprising 1500 acres, within Michigan that have been found unsuitable for BLM management or for transfer to the National Park Service, Fish and Wildlife Service, or Forest Service although they do have fish, wildlife, and other values, including value for public recreation. The majority of these are unsurveyed islands of 3 acres or less. Approximately 20 percent or 100 parcels are thought to be encumbered by claims of title asserted by parties other than the United States. Approximately 92 percent of the total number are unsurveyed. All existing disposal authorities require survey prior to transfer.

In late 1982, BLM evidently informed the Michigan Department of Natural Resources (DNR) that certain parts of these lands in Michigan were about to be declared "surplus" to the needs of the Federal Government. These included numerous islands and 596 acres of unpatented coastal uplands scattered about the waters of the Great Lakes, various connecting waterways, rivers, streams, and numerous inland lakes in 65 of Michigan's 83 counties. The DNR's reaction was that this offered an unparalleled opportunity to Michigan's natural resource managers to capitalize on an investment for the future at no cost to the state.

The DNR took advantage of this opportunity and acting under authority of a Natural Resources Commission Resolution, adopted in August 1982, submitted an application to the BLM for the cost free conveyance under the Recreation and Public Purposes Act of these miniature ecosystems that ranged from weathered boulders barely breaking the surface of the water to tree sprinkled islets serving as home for hundreds of herons, other shore birds, fur bearing animals, waterfowl and a myriad of plant species.

After the 1982 state application to the BLM, federal teams inspected many of the islands and screened records in county courthouses. Final state applications for the first 50 parcels, totalling about 467 acres and including lands in 10 counties, approved for release by the BLM were delivered to that agency's Milwaukee District Office on January 13, 1987, and in June 1987, transfer of the first 40 parcels (all islands) took place. The Committee understands that some additional transfers have been completed since that time, but that some of the first 50 parcels are still being processed.

In order to expedite and reduce the cost of overall transfer of these parcels, and to place them in the hands of the State for management under restrictions similar to those that would be imposed

through the Recreation and Public Purposes Act, the Michigan Congressional delegation, working with the DNR and BLM, developed S. 2632, introduced by Senator Riegle, and its companion measure, H.R. 4375.

In addition, the sponsors of the legislation desired to provide BLM with additional authority and flexibility to resolve non-federal claims on the remaining BLM lands in Michigan as well as a variety of problems being experienced by persons in possession of other lands in Michigan title to which is clouded because of property interests of the United States.

Some of these other title problems can be traced back to the pattern of French settlement along the Raisin River. There, in accordance with French customs, land was conveyed in narrow strips only a few rods wide along the river front but extending from the water as far back as one and a half miles in some cases.

Following the assumption of United States sovereignty over the area, the French claims were surveyed. Because French claims were based primarily on riparian frontage, they could not be conformed to the rectangular system of survey. Finally, in 1849 a Map of Private Claims on the River Raisin, Michigan was approved. This map gave the shape, size, and location of all the confirmed private claims in the area. In 1850, plats of resurvey were approved showing acreage of the fractional sections in the adjoining townships. The numerous small, irregular shaped parcels lying between the confirmed private claims were unpatented public land of the United States.

Beginning with the Act of April 25, 1808, and several times over the course of the years, Congress enacted legislation in an effort to resolve these title problems and also to permit the holders of the confirmed private land claims to extend their holdings up to 40 arpents (about one and a half miles) in depth from the water front upon the submission of applications for such tracts within a limited period. Some of these tracts were never applied for by the owners of the private land claims but apparently were settled upon by such owners.

Title to all the public lands was not resolved by these special statutes, although approximately 787 acres were transferred under the various acts.

In the 1960's, BLM identified approximately 2000 acres in the affected area which were still federally owned. County records were researched to determine if there were private claims and the problem was explained to local attorneys, abstractors, surveyors and public officials. In addition, notices were sent to all known claimants. As a result of this effort, much, but not all, of the land was patented by 1969. The BLM is aware of 14 parcels of public domain lands remaining in Monroe County, on which there are private ownership claims. These parcels contain a total of 161.83 acres. Many of the lands have been developed for roads, railroads, residential dwellings and cultivated farms. At least three of the parcels do not conform to surveyed land descriptions. It is highly unlikely that many of the holders of these lands would qualify for relief under the Color-of-Title Act or other existing authorities. For this reason, legislation is necessary if these problems are to be resolved, and Section 3 of H.R. 4375 is intended to meet this need.

LEGISLATIVE HISTORY

H.R. 4375 passed the House on July 11, 1988. A Senate companion measure, S. 2632, was introduced by Senator Riegle on July 12, 1988. No hearing has been held before the Subcommittee on Public Lands, National Parks and Forests.

At the business meeting on Wednesday, September 14, 1988, the Senate Committee on Energy and Natural Resources ordered H.R. 4375, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on Wednesday, September 14, 1988, by unanimous vote of a quorum present, recommends that the Senate pass H.R. 4375, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Melcher	
Mr. Bradley	
Mr. Bingaman	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker*	
Mr. Domenici	
Mr. Wallop	
Mr. Murkowski*	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	

*Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

Section One: Short Title; Findings and Purposes; Definitions

Subsection (a) would provide a short title, namely "Michigan Public Lands Improvement Act of 1988."

Subsection (b) sets forth seven findings.

Subsection (c) specifies that the purpose of the bill is to improve the management of public lands in Michigan in two ways:

(1) by transferring certain specified lands to the State for purposes of public recreation; protection of fish, wildlife and plants; and the protection of resources and values; and

(2) by authorizing the Secretary of the Interior to resolve claims to certain other public lands in Michigan and to trans-

fer such lands to claimants on terms that recognize the equities of such claimants in the lands.

Subsection (d) would provide definitions of a number of terms used throughout the bill.

Section Two: Land Grant to the State

Section two addresses approximately 500 parcels of BLM land in Michigan, totalling about 1500 acres, BLM has identified as suitable for State management.

Subsection (a) would be a grant of certain specified lands to the State of Michigan. This grant would be effective 180 days after the date of enactment of the bill, and would be subject to the terms and conditions of the bill. Under this subsection, Michigan would receive from the United States lands specified in a list on file in the Department of the Interior which as of January 1, 1988 were not the subject of any claim of title by a party other than the United States, so far as shown on the records of the Department of the Interior's Bureau of Land Management. Under Section 4 of the bill, the United States would retain the minerals in the lands and the title of the State of Michigan would be subject to restrictions as to alienation and use of the lands—violation of these restrictions having the effect of causing the reversion of title to the United States. More than 400 of the parcels identified by BLM as suitable for State management would be covered by this subsection.

Subsection (b) deals with the lands specified in the same list referred to in Subsection (a) which as of January 1, 1988 were identified on BLM's records as being subject to a claim of ownership by some party other than the United States. About 100 parcels are covered by the subsection. This subsection would authorize the Secretary of the Interior to resolve such claims under the new authority which is provided by Section 3 of the bill. The subsection requires the Secretary to notify the relevant claimants within 180 days after enactment of the bill concerning the Secretary's authority to resolve the claims. It also provides that any of the U.S. interest in these claimed lands which 10 years after enactment of the bill still had not been transferred by the Secretary through the Section 3 authority would be transferred to the State to the same extent U.S. interests in the lands covered by subsection (a) would be granted to the State, and subject to the same restrictions on alienation and use. The subsection would also provide that after such a transfer of interests to the State, any claim of ownership by any party other than the State would not be eligible for consideration by any federal court. (It should be noted that the term "claim" is defined in the bill as referring only to ownership claims by parties other than the United States; thus this subsection would not affect the ability of the United States to bring actions in federal courts.)

The intent of the portions of the subsection addressing non-mineral interests in these lands a decade after enactment of the bill is to provide for their transfer to the State and to require non-federal claimants to such interests to deal directly with the State of Michigan, rather than with the United States, utilizing State courts or other facilities for resolving any remaining disputes over ownership of the non-mineral interests in the affected lands.

Subsection (c) deals with Michigan lands which prior to enactment of the bill were either leased or patented under the Recreation and Public Purposes Act ("R&PP Act").

Paragraph (1) provides that title to lands which prior to enactment of the bill were leased under the R&PP Act to the State of Michigan or its departments or agencies shall be deemed to have vested in the State under the bill, with the result that the R&PP Act's specific provisions would no longer apply, but that the provisions of the bill (including the restrictions specified in Section 4) would apply to the lands.

Paragraph (2) provides that after enactment of the bill, any Michigan lands previously leased or patented under the R&PP Act to entities other than the State that should revert to the United States (for example, because of violations of the R&PP restrictions on use) shall be transferred to the State under the provisions of the bill (including the restrictions on Section 4 as to alienation and use).

Paragraph (3) provides a means whereby the State of Michigan, at its option, could bring under the provisions of the bill lands previously patented (rather than leased) to the State under the R&PP Act. Under this paragraph, should the State notify the Secretary that in order to bring such lands under the bill, the State intends to relinquish some or all such lands to the United States, the Secretary would be required to transfer the lands back to the State, subject to the provisions of the bill (including the restrictions of Section 4). The paragraph specifies that the relinquishment and retransfer would be effective simultaneously—thus preventing any "window" of time when other parties might seek to insert themselves between the United States and the State with respect to some interest in the lands.

Section Three: Resolution of Claims

Subsection (a) provides to the Secretary of the Interior new authority to sell public lands in Michigan, subject to quite specific requirements. Such sales could be made only to an applicant, and only in those cases involving tracts not exceeding 1500 acres which the Secretary has determined are difficult and uneconomic to manage as part of the public lands and unsuitable for management by another Federal department or agency (such as the Forest Service, National Park Service, or Fish and Wildlife Service). Such sales could also be made only where not inconsistent with BLM's land use plans developed in accordance with Section 202 of the Federal Land Policy and Management Act of 1976 ("FLPMA"). Additional limitations would be set by subsection (d) of this section and by section 4(a).

Subsection (b) authorizes the Secretary to make sales under this section for a price less than fair market value to the extent that such a reduction was justified by equities presented by an applicant. The Secretary would be able to consider a variety of factors, including the amount paid by the applicant for the land, the longevity of the applicant's claim, taxes paid, and other equities found relevant by the Secretary; but any reduction from fair market value would be a matter solely of Secretarial discretion.

Subsection (c) provides that lands conveyed under Section Three would be described in accordance with the public land survey system and an approved Federal survey plat. In order to allow use of the Section Three sales authority in those cases in which a tract does not conform to an existing survey plat, this subsection authorizes the Secretary either to convery title to a trustee on behalf of more than one applicant or to require an applicant to reimburse the United States for the cost of preparing a plat of survey.

Subsection (d) further qualifies the sale authority that this section provides to the Secretary. Paragraph (1) specifies that the sale authority could be used only with respect to the tracts specified in section 2(b)—that is, specific lands which as of January 1, 1988 were subject to a claim of ownership by a nonfederal party as shown on the records of the Bureau of Land Management—or other public lands in Michigan whose sale is requested by persons or entities asserting claims to ownership. (Thus, this paragraph would make clear that an applicant for a sale under Section Three would have to support such an application by a showing of a claim of ownership before the Secretary could consider taking any action in response to the application.)

Paragraph (2) provides that before consummating a sale under Section Three, the Secretary would have to give 30 days public notice of the details of a proposed sale through publication in a newspaper of general circulation in the local county.

Section Four: Reservations and Conditions

Subsection (a) provides that the United States retains the minerals in all the lands granted or otherwise transferred under the bill. This would include the lands granted or otherwise transferred to the State and also lands sold under Section Three to claimants; however, the subsection would specifically allow the Secretary to include the minerals in a sale under Section Three in accordance with Section 209 of FLPMA. The effect of this is that while the United States would retain the minerals in all lands granted or otherwise transferred to the State under the bill, claimants to whom the surface of other lands could be sold under Section Three could also purchase the minerals in those cases in which the Secretary finds either that there are no known mineral values in the land or that the reservation of the minerals in the United States was interfering with or would preclude appropriate nonmineral development of land that would be a more beneficial use than mineral development; under FLPMA, such a purchase of the minerals would have to be for fair market value (which in the case of lands of no known mineral value would be a nominal amount) and would also require reimbursement to the United States for the administrative cost involved.

Subsection (b) establishes the restrictions applicable to lands granted or otherwise transferred to the State of Michigan under the bill.

Paragraph (1) provides that the State could not convey or otherwise transfer the lands to any person or entity except a political subdivision of the State of Michigan.

Paragraph (2) limits the use of the lands to purposes of public recreation; protection of fish, and wildlife (including habitat) and

plants; or the protection of the scenic, scientific, historic, cultural, geologic, and other resources and values of the lands.

Paragraphs (3) and (4) of this subsection contain the "reversionary clauses" which would effectuate the restrictions set forth in paragraphs (1) and (2). Under subparagraph (A) of paragraph (3), any attempt by the State to transfer any part of the lands to an entity other than a political subdivision would have the effect of causing the reversion to the United States of the State's right, title, and interest in all of the lands granted or otherwise transferred to the State under the bill which remained in the State's hands (as opposed to those of a political subdivision) at the time of such attempt, together with all improvements thereon. Under subparagraph (B) of paragraph (3), if a political subdivision which had received from the State some of the lands covered by the bill attempted to transfer any such lands to a party other than the State, this would similarly cause a reversion to the United States of all such lands received from the State then in the hands of the political subdivision, together with improvements thereon.

Under subparagraph (A) of paragraph (4), use of any part of the lands granted or otherwise transferred to the State under the bill for any purpose incompatible with the purposes specified in paragraph (2) of subsection 4(b) would cause the reversion to the United States of all such lands then in the hands of the State, together with improvements thereon. And under subparagraph (B) of the same paragraph, any such use of any of the same lands after their transfer by the State to a political subdivision would cause the reversion to the United States of all such lands then in the hands of that subdivision, together with the improvements thereon.

Section Five: Notice and Enforcement

Subsection (a) provides for public notice of the transfer of lands to the State under the bill, and for periodic reports by the State concerning the status of those lands. Paragraph (1) would require the Secretary to take steps to notify residents of Michigan concerning the nature and location of the lands that would be granted or otherwise transferred to the State under the bill.

Paragraph (2) requires the State to keep the Secretary informed concerning any transfer to a political subdivision of lands received by the State under the bill by providing a notice in writing within one year after such transfer by the State (failure to provide such notice would void the transfer and cause the reversion of the affected lands to the United States). It also requires the State, five years after enactment and each five years thereafter, to submit a report as to the ownership status and the use of the lands granted or otherwise transferred to the State under the bill.

Paragraph (3) requires the Secretary to maintain in Michigan and Washington, D.C. a current record of the status of lands granted or otherwise transferred to the State under the bill.

Subsection (b) deals with enforcement. It provides (in paragraph (1)) that any person could submit to the Secretary a complaint alleging a failure by the State or a political subdivision to comply with the requirements of the bill or alleging that actions have occurred to trigger the reversion of lands covered by the bill to the United States.

Paragraph (2) provides that if the Secretary determined that a complaint was supported by sufficient evidence, the Secretary is required to conduct such an investigation.

Paragraph (3) provides that if for any reason the Secretary should determine that title to some or all of the lands received by the State under the bill had reverted to the United States, the Secretary would be required to take all necessary steps to enforce such reversion and to stop any use of the lands for any purpose incompatible with the purposes specified in Section 4(b)(2) of the bill.

Paragraph (4) requires that any lands that might revert to the United States under the bill be retained by the Secretary and managed for the purposes specified in Section 4(b)(2), namely, public recreation; the protection of fish and wildlife (including habitat) and plants; or the protection of the scenic, scientific, historic, cultural, geologic, and other resources and values of the lands.

Section Six: Hunting and Fishing

This section states that nothing in this Act is to be construed as affecting the jurisdiction or responsibilities of the State of Michigan with respect to fish and wildlife (including the regulation of hunting, fishing, and trapping) in any lands granted or otherwise transferred to the State under the bill.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 4375. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 4375, as reported.

EXECUTIVE COMMUNICATIONS

On September 22, 1988, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on H.R. 4375. These reports had not been received at the time the report on H.R. 4375 was filed. When the reports become available, the chairman will request that they be printed in the Congressional Record for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of the rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act, H.R. 4375, as reported.

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Calendar No. 973

100TH CONGRESS
2d Session

SENATE

REPORT
100-538

CREATING A NATIONAL PARK AT NATCHEZ, MS

SEPTEMBER 22 (legislative day, SEPTEMBER 7), 1988.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 4457]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 4457) to create a national park at Natchez, Mississippi, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 4457 is to authorize the establishment of the Natchez National Historical Park.

BACKGROUND AND NEED

Natchez, Mississippi, has been settled by the Natchez tribe, the French, English, Spanish, and Americans. Its first European occupation, Fort Rosalie, was settled by the French in 1716. In 1763, it became British; in 1779, Spanish; and was officially made part of the United States in 1798. The location of Natchez on the Mississippi River has greatly shaped its development, including being the terminus of the approximately 450 mile Natchez Trace which provided an overland route to Nashville, Tennessee.

Beginning in the early 1700's, flatboats drafted down the Mississippi and walked back north along the Natchez Trace. The Trace has been a unit of the National Park System since 1938. With steamboat travel (beginning in 1811) and growth of cotton as a major crop, Natchez prospered as a major river port and commercial center. Residents built elegant homes above the river, many of which still stand as evidence of antebellum wealth. Natchez-Under-the-Hill, the historic river port, had a different reputation, with its saloons, brothels and gambling houses. Natchez also had a signifi-

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cant black population, both slave and free. Almost half of Mississippi's free black population resided in Natchez before the Civil War. Because the city experienced relatively little damage during the war, many of the antebellum homes still remain, including Melrose, the Briars, Weymouth Hall, and Magnolia Vale. After the Civil War, Natchez did not regain its former wealth and prominence. However, it remained a regional commercial hub and became a manufacturing center at the beginning of the twentieth century. Tourism is now the city's largest industry. Today there are five Historic districts, and ten National Historic Landmarks located in Natchez.

LEGISLATIVE HISTORY

H.R. 4457 passed the House of Representatives on July 26, 1988. A Senate companion measure, S. 2492, was introduced by Senators Cochran and Stennis on June 10, 1988. A hearing was not held before the Subcommittee on Public Lands, National Parks and Forests.

At the business meeting on Wednesday, September 14, 1988, the Senate Committee on Energy and Natural Resources ordered H.R. 4457, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 14, 1988, by unanimous vote of a quorum present, recommends that the Senate pass H.R. 4457, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Melcher	
Mr. Bradley	
Mr. Bingaman	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker*	
Mr. Domenici	
Mr. Wallop	
Mr. Murkowski*	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	

* Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the purposes of the park.

Section 2(a) establishes the Natchez National Historical Park in Natchez, Mississippi.

Section 2(b) specifies that the park shall consist of this historic district established under this Act and (1) the lands and structures known as Melrose together with all personal property located on such lands and (2) the lands and improvements thereof known as, or associated with, Fort Rosalie. Fort Rosalie shall be included within the park only if the Secretary of the Interior (hereinafter referred to as the "Secretary") determines that its historic resources are of sufficient national significance and integrity to warrant inclusion in the national park system. The Secretary shall only make such determination after receiving a recommendation based on scholarly research on the national significance and integrity of the historic resources of Fort Rosalie from the Governor of the State of Mississippi and the Mayor of the City of Natchez, in consultation with the State Historic Preservation Officer.

Section 2(c) directs the Secretary to prepare a map of the lands included within the park.

Section 3 authorizes the Secretary to acquire lands or interests in land, together with structures and other improvements thereon and personal property by donation, purchase with donated or appropriated funds or exchange. The Secretary is also authorized to acquire additional lands and properties for the purposes of an administrative headquarters and administrative site. Except for such property as is needed for the headquarters and Melrose and Fort Rosalie, the Secretary may not acquire fee title to any property. The Secretary may not acquire Melrose unless at least 25 percent of the fair market value of the property as determined by the Secretary is donated to the United States.

Section 4(a) directs the Secretary to administer the park in accordance with this Act and the Act of August 25, 1916 (16 U.S.C. 1–4) and the Act of August 21, 1935 (16 U.S.C. 461–467). Properties acquired for the park under this Act shall be available for visitor inspection and enjoyment as promptly as practicable after the date of acquisition notwithstanding the absence of a park management

Section 4(b) permits the Secretary to accept and expend donations.

Section 4(c)(1) directs the Secretary to prepare and transmit to the appropriate committees of Congress a study of those properties in the city of Natchez and its immediate environs that preserve and interpret the history contained in the purposes of this Act. The report shall consider which properties best exemplify the purposes in Section 1 and shall consider the appropriate means for providing technical assistance to, and interpretation of, such properties. The study and report shall include consideration of Natchez-Under-the-Hill and the Briars.

Section 4(c)(2) directs the Secretary to establish historic districts in the city of Natchez and its immediate environs for the preservation and interpretation of the resources that contribute to the understanding of the purposes of this Act within one year from the date of enactment and after completion of the study.

Section 4(c)(3) authorizes the Secretary to enter into cooperative agreements with the owners of historic or cultural properties within the historic districts established in Section 4(c)(2). Such cooperative agreements shall permit the Secretary to mark, interpret, improve, restore and provide technical assistance for the preservation and interpretation of such properties. The agreements shall include provisions that the Secretary shall have certain rights of access for purposes of interpreting these properties, and that no changes or alterations shall be made in the property except by mutual agreement.

Section 4(d) directs the Secretary to prepare and submit to the appropriate Committees of Congress a General Management Plan within three fiscal years after enactment of this Act in accordance with the Act of August 18, 1970 (16 U.S.C. 1a–1 through 1a–7). The plan shall identify appropriate facilities for propery interpretation of the site for visitors.

Section 5 directs the Secretary to prepare and transmit to the appropriate Committees of Congress within one year a study on the feasibility of extending the Natchez Trace within the City of Natchez, including the acceptnce of donations of rights-of way.

Section 6(a) establishes the Natchez National Historical Park Advisory Commission (hereinafter referred to as the "Advisory Commission"). The Advisory Commission shall have six members appointed by the Secretary, with two appointed from individuals nominated by the mayor of the city of Natchez and one from among individuals nominated by ther Governor of Mississippi. Two of the members shall have expertise in historic preservation and one shall have expertise in architectural history. Any member appointed for a definite term may serve until a successor is appointed. The Advisory Commission shall designate one member as its Chairperson.

Section 6(b) directs the Secretary to meet and consult at least semiannually with the Advisory Commission on matters relating to the management and development of the park.

Section 6(c) directs the Advisory Commission to meet on a regular basis, to publish notice of meetings and agenda, and to ensure adequate public involvement.

Section 6(d) allows payment for expenses of the members of the Advisory Commission.

Section 6(e) waives section 14(b) of the Federal Advisory Commission Act.

Section 7 authorizes appropriations of $12 million.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following eval-

uation of the regulatory impact which would be incurred in carrying out H.R. 4457. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 4457, as reported.

EXECUTIVE COMMUNICATIONS

On September 16, 1988, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on H.R. 4457. These reports had not been received at the time the report on H.R. 4457 was filed. When the reports become available, the chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the appropriate agency at the hearing conducted by the House Subcommittee on National Parks and Public Lands follows:

STATEMENT OF WILLIAM PENN MOTT, JR., DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and Members of the Committee, it is a pleasure to appear before your Committee today to discuss H.R. 4457 and H.R. 4596, bills designed to establish a national park in Natchez, Mississippi.

We strongly support the concepts embodied in both of these bills; however, we believe they are premature until the Department has completed a thorough review of each. We oppose any Federal acquisition and development until the National Park Service has time to further study management, ownership and size alternatives. Absent such data we cannot make informed decisions on the nature and scope of a Federal presence in the area. We believe that further study could ultimately lead to the designation of a park unit, the key features of which might include access to an antebellum mansion and the bluffs overlooking the Mississippi River, but we also believe any such proposal should have the benefit of a full range of alternatives and a complete information base. These data can be available within one year.

Mr. Chairman, I think it is safe to say that Natchez possesses not one but several opportunities to preserve and provide for public enjoyment of significant pieces of the early history of this Nation. From the early 1700's when the French occupied this area and built Fort Rosalie at the seat of their government to the British and later the Spanish eras up through the early 1800's, Natchez has been a focal point of many cultures which left their record in the lower Mississippi River Valley. One cannot study this area without coming away with some appreciation of its prehistory, as well. The Natchez Indians, one of several mound-building cultures in North America, became dominant in this region during the mid-1500's. Pot shards, representative of early man, are found frequently along the bluffs overlooking the Mississippi River.

It is the antebellum period which now attracts visitors to Natchez as it has for the past 50 years. In the decades leading up to the Civil War, Natchez became a commercial, cultural, and social center of one of the world's great cotton-producing regions—the "cotton belt" of the American South. One historian has described Natchez as "the richest principality in the domain of King Cotton." Planters living in Natchez controlled vast plantations in Louisiana, the Mississippi Delta, and in Alabama, Arkansas, and Texas as well. Thousands of slaves worked these plantations.

One of Natchez' richest resources is its black history. Natchez' population almost from its founding in 1716 has included a large percentage of black residents. In 1723, when Natchez' Fort Rosalie was only 7 years old, the population consisted of 303 inhabitants of whom 111 were blacks. Natchez also had a large number of prominent free black residents. Almost one-half of the total free, black population in Mississippi resided in Natchez by the 1850's. Transcending the issues of supremacy and slavery are the stories of the human spirit that dominated to make this Nation the rich cultural Nation that we are today.

Mr. Chairman, the two measures which this Committee addresses today are designed to create a separate unit of the National Park System in Natchez which in effect would be the termination of the Natchez Trace Parkway. This bureau has long held the view that the Parkway should terminate in Natchez, however, the details of how that is to be accomplished have never been finalized. There is no doubt in my mind that there are properties of historical as well as recreational value contained in both of these bills. However, the haste with which these measures have come before us has not allowed us time to consider basic issues. For example, while conceding the national significance of properties such as Melrose, one of many superb antebellum mansions that could potentially provide the visitor with an outstanding experience, we know little if anything about how these various properties could be tied together in one manageable unit and who would manage it. What logical boundaries would one circumscribe around the whole? What interests should the Service acquire in such properties, and, assuming that not all would be acquired by the Federal Government, what arrangements should be made to bring all the entities together to form a manageable unit? The answers to these and other questions which relate to this area and its connection to the Natchez Trace Parkway are only to be found following both extensive and intensive planning efforts involving all interested parties, including State, local, private and Federal. I believe it would be a mistake to fashion a park, be it historical or recreational, with as little investigation as has been done heretofore.

Mr. Chairman, there is a process in place to create new units of the National Park System that works. Study is needed to determine what is required to serve the national interest here and suggest what should be the relative roles of the Federal, State and local governments and the private sector. At Cape Cod National Seashore and Jefferson National Expansion Memorial, to cite but two examples, studies led to legislation that created parks that were established incrementally. That is, pieces of the parks were assembled over time, and once a sufficient assemblege was put to-

gether the park was declared operative. This was done in concert with local elected officials and the public and resulted in very worthwhile additions to the National Park System. We urge the Congress to let this process work in the case of the proposed Natchez park.

Mr. Chairman, if we proceed in haste we may spend a great deal of taxpayers' dollars yet not obtain the optimum results for the public. Federal land acquisition costs alone under these proposals could reach $40,000,000. Annual operating costs may exceed $1,000,000 in the first year. We have no firm estimates of construction costs but conservative per-mile costs for construction of the Natchez Trace Parkway approximate $1,000,000 and typical visitor center construction costs run well over $1,000,000 for even a modest center. We feel it is essential to have such estimates so the Congress and the Administration can weigh these against other needs throughout the National Park System when making spending decisions.

We also note that these bills would provide for the proposed park to include the bluffs along the Mississippi River at Natchez. We understand this area has been subject to erosion and sloughing problems. Stabilization of the bluffs could cost millions of dollars annually. As a general matter, erosion control along non-Federal riverbanks is not a Federal responsiblity. We would seriously question any proposal or suggestion that the National Park Service or any other Federal agency should assume this responsibility in connection with the establishment of a park unit at Natchez.

Finally, but equally important, Mr. Chairman, we believe it would be unfair, in light of the existing Federal deficit situation and the land acquisition backlog of the National Park Service, to hold out an expectation to landowners that their property would be acquired expeditiously through the use of Federal dollars.

Mr. Chairman, this concludes my prepared testimony on these measures. I would be pleased to respond to any questions you or other Members of the Committee may have at this time.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 4457, as reported.

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